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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,817	01/21/2004	Thomas K. Milo	TKMZ 2 00002-3	4447
27885	7590	03/02/2006	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			JOHNSON, STEPHEN	
			ART UNIT	PAPER NUMBER
			3641	

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10761,817	Applicant(s) MILO, THOMAS K.	
	Examiner Stephen M. Johnson	Art Unit 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-9 and 11-35 is/are pending in the application.
- 4a) Of the above claim(s) 7-9, 11-18, 25-30 and 35 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 32 and 33 is/are allowed.
- 6) ☒ Claim(s) 1,3-6, 19-24 and 34 is/are rejected.
- 7) ☒ Claim(s) 31 is/are objected to.
- 8) ☒ Claim(s) 1,3-9 and 11-35 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Applicant's election with traverse of species B (figs. 9A-9E) in the reply filed on 8/22/2005 is acknowledged.

Claims 1, 3-6, 19-24, and 31-34 read on the elected invention and an action on these claims follows. Claims 7-9, 11-18, 25-30, and 35 are withdrawn from consideration as being directed to non-elected species.

2. Claims 1, 3-6, 20-21, and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 13-14, use of the phrase "an engagement mechanism" makes the claim indefinite. It appears that the engagement mechanism should be claimed as (said expansion member 242) since this is the member in the elected species that "selectively engages a surface of the tubular extension" as claimed. In claim 1, lines 14-15, use of the phrase "to fix the location of the slidable rod in relation to the tubular plug extension" makes the claim indefinite once the expansion member or engagement mechanism 242 selectively engages a surface of the tubular extension 232 it does not fix the location of the slidable rod. The slidable rod 226 could be pulled out of the tubular extension bore after fixing the location of the expansion member or could be used to loosen the sliding expansion tube 242. In either case, the slidable rod 226 is not accurately described as fixed in location as is now claimed. The claim language in claim 5, lines 3-4, directed to "to secure the rod in relation to the tubular plug extension" and in claim 20, line 3, directed to "to fix the location of the slidable rod" are indefinite for like reasons.

In claim 34, applicant claims "the engagement mechanism comprises a flanged lip disposed adjacent a slit in the slidable rod". This makes the claim indefinite. While applicant has

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structure to support this claim language as illustrated in fig. 9D, this structure does not “selectively move radially to selectively engage an inner surface of the tubular extension”. This claim language is a requirement of the claimed “engagement member” (see claim 1, last two lines).

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 19 and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Peterson (685).

Peterson (685) discloses a gun safety comprising:

- | | |
|--|----------------------------|
| a) an adjustable rod assembly tubular extension; | portion of 10 (see fig. 7) |
| b) a selectively expandable portion; | 16 |
| c) an internal bore; | portion of 10 (see fig. 7) |
| d) a slidable rod; | 28 |
| e) an engaged barrel. | 14 |

5. Applicant’s arguments are addressed as follows.

It is argued that the claim language directed to “the tubular extension and the slidable rod cooperating with one another to allow selective movement of the rod in and out of the bore and to inhibit rotational movement of the rod in the bore” is not met by Peterson. In this regard, note that slidable rod 28 moves in and out of the device 10 when pressed by actuating rod 34 (see col. 4, lines 24-29). Also note that rod 28 is attached to elastic member 16 (col. 4, lines 27-29) and as

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such would inhibit rotation movement of the rod 28 within the bore particularly when the elastic member is in the compressed state locked within the barrel of the firearm.

6. Claims 19 and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Audino (336).

Audino (336) discloses a gun safety comprising:

- | | |
|--|------------------------------|
| a) an adjustable rod assembly tubular extension; | 22, 26 (portion contains 70) |
| b) a selectively expandable portion; | 26 (portion contains 38) |
| c) an internal bore; | contains 70 |
| d) a slidable rod; | 22 |
| e) an engaged barrel. | see fig. 8 |

7. Applicant's arguments are addressed as follows.

It is argued that in Audino the length of the device is fixed. In response, elements 22, 26 in combination are intended to meet the claim limitation directed to "an adjustable rod assembly". Clearly the length of this assembly 22, 26 is not fixed (see figs. 3 and 4).

It is argued that the claim language directed to "the tubular extension and the slidable rod cooperating with one another to allow selective movement of the rod in and out of the bore and to inhibit rotational movement of the rod in the bore" is not met by Audino. In this regard, note that slidable rod 22 moves in and out of the device 26 (compare figs. 3 and 4). Also note that rod 22 is attached to and in tension with spring 70 and as such would inhibit rotation movement of the rod 22.

8. Claims 1 and 3-6 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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9. Claim 31 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 32-33 are allowed.

11. Claims 20-21 and 34 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Applicant's arguments filed on 1/03/2006 have been fully considered but they are not persuasive. These arguments have been addressed in paragraphs 5 and 7 above.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

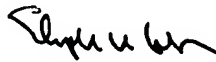
14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 571-272-6877

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and whose e-mail address is (Stephen.Johnson@uspto.gov). The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The Central FAX phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 800-786-9199.


STEPHEN M. JOHNSON
PRIMARY EXAMINER

Stephen M. Johnson
Primary Examiner
Art Unit 3641

SMJ
February 21, 2006